

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK/NEWPORT NEWS DIVISION

SEP - 8 2016

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO: 2:16cr36

Gerald Andrew Darby

SENTENCING PROCEDURES ORDER

1. The sentencing hearing shall be scheduled no earlier than EIGHTY (80) DAYS following a plea of guilty or verdict of guilty, and sentencing is scheduled in this case at 10:00 am, in Norfolk on December 15, 2016.

2. Counsel for the defendant is hereby given notice of the right to attend any interview of the defendant conducted by the Probation Officer in the course of the presentence investigation. ***The Probation Officer shall not take any statements from the defendant without the presence of counsel.***

3. The Presentence Investigation Report, including guideline computations, shall be completed and provided to the parties at least THIRTY-FIVE (35) DAYS prior to the sentencing hearing. A copy of this policy statement shall operate as notice to counsel that the presentence report will be furnished by the Probation Office THIRTY-FIVE (35) DAYS prior to the sentencing hearing. A copy of the presentence report may not be disclosed to persons other than the defendant..

4. If, after a review of the presentence report, there are no factors or facts material to guideline computations in dispute, counsel shall file a stipulation signed by the defendant and all counsel within FOURTEEN (14) DAYS after receiving the presentence report.

5. A party objecting to guideline determinations or facts in the presentence report shall deliver a written statement to the Probation Officer and opposing counsel within FOURTEEN (14) DAYS after receiving the presentence report setting forth any objections and any authorities relied upon.

6. It is the obligation of the objecting party to seek resolution of such objections in conference with opposing counsel and the United States Probation Officer as soon as practicable, but no less than TEN (10) DAYS prior to the sentencing hearing. This presentence conference is mandatory when objections effecting guideline computations are in dispute, and it is the responsibility of the objecting party to schedule it with the Probation Officer and opposing counsel.

7. If any objections are unresolved prior to the sentencing hearing, counsel for the defendant and the government shall file a pleading entitled "Position of Parties with Respect to Sentencing Factors," ("Position Paper") containing all objections and the grounds therefor, in accordance with Section 6A1.2 of the Sentencing Guidelines and Policy Statements (Oct. 1987) SEVEN (7) DAYS prior to the sentencing hearing. A copy shall be delivered to the Probation Officer on the date of filing.

8. If evidence is sought to be presented at the sentencing hearing, the parties shall file as a part of their "Position Paper" an outline of such evidence, including: (1) a description of the testimony of any witnesses sought to be called; (2) all documents, and (3) any affidavits. A copy shall also be filed with the Probation Officer. The Court may resolve objections upon the submissions of the parties and will hear witness testimony only for good cause shown.

9. The United States Probation Officer shall transmit to the sentencing judge the presentence investigation report, including guideline computations, and an addendum indicating any unresolved objections by the parties with respect to the application of the guidelines SEVEN (7) DAYS prior to the sentencing hearing.


10. All motions for upward or downward departure, responses, and rebuttal shall be filed and served FOURTEEN (14), SEVEN (7), and FOUR (4) DAYS, respectively, before the sentencing date. A copy shall also be delivered to the Probation Officer on the same dates.

11. Failure of counsel to adhere to the times set forth in this Order shall result in written notification to the Court by the Probation Officer, with a copy provided to all counsel.

12. The times set forth in this Order may be modified by the Court for good cause shown. Time periods under this Order shall be CALENDAR days; no extra days for mailing shall be permitted. Except for the Presentence Investigation Report itself, all papers and pleadings may be filed and served on opposing counsel and the Probation Officer by facsimile mail, provided that such papers and pleadings bearing one original signature are simultaneously served by regular mail. In computing any period of time under this Order, if any deadline falls on a Saturday, Sunday, or holiday, the deadline shall be the FIRST (1st) BUSINESS DAY after the Saturday, Sunday, or holiday.

It is SO ORDERED.

Date: 9/8/2016



Douglas E. Miller, U.S. Magistrate Judge

I HEREBY ACKNOWLEDGE RECEIPT OF A COPY OF THE SENTENCING PROCEDURES ORDER.



DEFENDANT

9-8-16

DATE



COUNSEL FOR DEFENDANT

9-8-16

DATE



COUNSEL FOR THE UNITED STATES

9/8/16

DATE